GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Minorities Welfare Department – Reconstitution of Andhra Pradesh State Waqf Board Under Waqf Act, 1995 and appointment of Members to the Waqf Board – Orders – Issued.

MINORITIES WELFARE (IDM) DEPARTMENT

G.O.MS.No. 10 **Dated: 13-03-2018**

Read the following: -

1. Andhra Pradesh State Reorganisation Act-2014.
2. From the Under Secretary, Government of India, Ministry of Minority Affairs, New Delhi, Letter No. 8/10/2014-Waqf, dated 15.09.2015.
3 G.O.Ms.No.119, Minorities Welfare (SDM) Department, dated:30.10.2015.
4. G.O.Ms.No.8, Minorities Welfare (IDM) Department, dated:13.01.2016.
5. G.O.Ms.No.86, Minorities Welfare (IDM) Department, dated: 14.07.2017.
6. G.O.Ms.No.25, Minorities Welfare (IDM) Department, dated:14.07.2017.
7. G.O.Ms.No.26, Minorities Welfare (IDM) Department, dated:18.07.2017.
8. G.O.Ms.No.30, Minorities Welfare (IDM) Department, dated:26.07.2017.
9. G.O.Ms.No.31, Minorities Welfare (IDM) Department, dated:10.08.2017.
10. From the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh order in I.A.No.1 of 2017 (WVMP No.4342 of 2017) in W.P.No.27642 of 2017, dated:22.01.2018.
11. Writ Appeal Nos. 284 of 2018 and 298 of 2018 filed by Sri Jaleel Khan, MLA., in the High Court at Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh.
12. High Court at Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh order in IA.No.3 of 2018 Writ Appeal Nos.284 and 298 of 2018, dated:26.02.2018.

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ORDER:

In the reference 1st read above, the State of Andhra Pradesh has been reorganised into two States viz. Andhra Pradesh State and Telangana State.

2. In the reference 2nd read above, the Ministry of Minority Affairs, Government of India, has communicated that in exercise of powers conferred by sub-section (2) to (5) of Section 102 of the Waqf Act, 1995 (Central Act 43 of 1995), the Central Government after consulting the State Governments of Andhra Pradesh and Telangana has approved the scheme for dissolution of Andhra Pradesh State Waqf Board and for reconstitution of separate Waqf Boards for the separate States of Andhra Pradesh and Telangana. The above decision is notified in the Government of India Extraordinary Gazette No.1917, dated 08.09.2015.

3. In the G.O. 3rd read above, the Government has established the Andhra Pradesh State Waqf Board with effect from 08.09.2015. The Government have decided to constitute the Andhra Pradesh State Waqf Board by notifying the elections to the Elected category of Members of the Board in terms of Section 14 (1)(b), (ii), & (iv) of the Waqf Act, 1995. In the reference 4th and 5th read above, orders have been issued appointing Election Officer and Assistant Election Officers for constitution of Andhra Pradesh State Waqf Board as per the provisions laid down under Waqf Act-1995.

4. In the reference 8th read above, the Government of Andhra Pradesh have appointed Sri Yousuf Sharif, IFS., (Retd.), Survey Commissioner of Waqf, as Competent Authority (Full Additional Charge) to A.P. State Waqf Board with immediate effect till further orders.

(PTO)

5. In the reference G.O. 6th read above, Government have issued Notification in exercise of the powers conferred under clause (b) of sub-section (1) of Section 14 of the Waqf Act-1995 (As amended in 2013) read with sub-Rule (2) of Rule 7 of the Andhra Pradesh State Waqf Board Conduct of Election Rules-1996 for the election of the members of the Andhra Pradesh State Waqf Board under category (ii) –Muslim Members of the State Legislature; and category (iv) – Muthawallis and Members of Managing Committees of the Waqf having an Annual Income of Rupees One lakh and above to constitute the State Waqf Board and have also notified the schedule for conducting the elections to the A.P. State Waqf Board. The Chief Executive Officer, A.P.State Waqf Board in his letter, dated:17.07.2017, has sought sufficient time for the preparation of the Electoral Roll pertaining to the Muthawallis and Managing Committees of the Waqf Institutions under Clause (d) of Rule 4 of the Andhra Pradesh State Waqf Board, Conduct of Election Rules-1996. He has also informed that all the Districts in the State of Andhra Pradesh are experiencing very heavy rains and that it may be difficult for the Muthawallis and the Managing Committees to submit the claims and objections in person at Velagapudi, before the Election Authority. In these circumstances the Government issued G.O.Ms.No.26, Minorities Welfare (IDM) Department, dated:18.07.2017, Government rescinding the notification issued in G.O.Ms.No.25, Minorities Welfare (IDM) Department, dated:14.07.2017. In the Government Memo.No., dated:20.07.2017, the Chief Executive Officer, A.P. State Waqf Board was requested to furnish the Electoral Roll pertaining to the Muthawallis and Managing Committees of the Waqf Institutions under clause (d) of Rule 4 of the A.P.State Waqf Board Conduct of Election Rules, 1996, for conduct of elections for the category (iv) of section 14(1)b) of the Waqf Act. After obtaining the report from the Chief Executive Officer, A.P.State Waqf Board, Government issued a notification of Election Schedule of A.P.State Waqf Board for the following categories vide G.O.Ms.No.31, Minorities Welfare Department, dated:10.08.2017-

Category 14 (1)(b)(ii)

Muslim Members of State Legislature	….	One Member from among the Muslims Members of Andhra Pradesh State Legislature

Category 14 (1)(b)(iv)

Muthawallis and Members of the Managing Committees of the Waqf having an Annual Income of Rupees One Lakh and above	…	Two Members from among the Muthawallis and Managing Committee

6. Thereafter the election was conducted on 31-08-2017. Sri Mohammad Musthafa Shaik, S/o. Late Abdul Rahaman Shaik has filed a case against this in W.P.No.27642 of 2017 in the High Court at Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh. The Hon'ble High Court has granted stay in the I.A.No.1 of 2017 (WVMP No.4342 of 2017) in W.P.No.27642 of 2017.

7. In the reference 11th read above, Sri Jaleel Khan, MLA, filed Writ Appeal Nos. 284 of 2018 and 298 of 2018 in the High Court at Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh and prayed the Hon'ble Court to stay the operation of the Order dated:22-01-2018 passed by the Hon'ble Court in I.A.No.1 of 2017 (WVMP.No.4342 of 2017) in W.P.No.27642 of 2017 and consequently permit him to get appointed to the office of member of the Andhra Pradesh State Waqf Board, pending disposal of the Writ Appeal.

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8. In the reference 12th read above, the High Court at Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in its order dated 26.02.2018 held that-

"The dispute, in the present case, relates to whether there should be one or two members in the Waqf Board from the category of Muslim members of the State Legislature. While the State Government had initially issued G.O.Ms.No.25, dated:14.07.2017, prescribing the number of Muslim members from the State Legislature, to be represented in the Waqf Board, as two, this notification was rescinded four days thereafter vide G.O.Ms.No.26, dated:18.07.2017, and a fresh notification was issued in G.O.Ms.No.31, dated:10.08.2017 reducing the representation of Muslim members of the State Legislature, in the A.P. State Waqf Board, to one. The power to issue the notification, in G.O.Ms.No.31, dated:10.08.2017, was exercised by the State Government under Section 14(1) of the Waqf Act which uses the words "one and not more than two members, as the State Government may think fit". On a plain reading of Section 14(1)(b) of the Act it does appear, prime-facie, that the discretion conferred on the State Government to prescribe one or two members, from any of the categories of clauses (i) to (iv) thereunder, is "if it thinks fit" and is unfettered".

And-

"We see no reason, therefore, to deny the appellant in W.A.No.284 of 2018, who was elected unopposed as a member of the A.P.Waqf Board from the category of Muslim Members of the State Legislature, from being part of the Waqf Board. The order under appeal is modified and the election of the appellant in W.A.No.284 of 2018 as a member of the A.P.Waqf Board, shall be subject to the result of W.P.No.27642 of 2017, as the substantive Writ Petition is still pending adjudication before the Learned Single Judge, suffice it to direct the appellant in W.A.No.298 of 2018 to issue proceedings making it clear that, inclusion of the appellant in W.A.No.284 of 2018 (the A.P.Waqf Board) to issue proceedings making it clear that, inclusion of the appellant in W.A.No.284 of 2018 as a member of the A.P.Waqf Board, shall be subject to the result of W.P.No.27642 of 2017."

9. Now the following Notification shall be published in Part-II of an Extra Ordinary issue of the Andhra Pradesh State Gazette, dated: 13.03.2018: -

NOTIFICATION

In exercise of the powers conferred under Sub-Section (9) of Section (14) and Section (15) of the Waqf Act, 1995 (Central Act No.43 of 1995), the Governor of Andhra Pradesh hereby appoints the following persons as Members of the Andhra Pradesh State Waqf Board with immediate effect:

Elected Members

1) Sri Jaleel Khan, Muslim Member of Legislature elected u/s 14 (1)(b)(ii) of the Waqf Act, 1995 (election of this Member is subject to the final result of W.P.No.27642 of 2017 in the Honourable High Court)
2) Sri Shaik Khaja, , Mutawalli elected under section Category 14 (1)(b)(iv) of the Waqf Act, 1995
3) Sri K.M.Shafiullah, Mutawalli elected under section Category 14 (1)(b)(iv) of the Waqf Act, 1995

Members Nominated u/s 14 (1)

4) Sri V.S.Ameer Babu - nominated u/s 14(1) (c)
5) Smt. Shaheda Begum – nominated u/s.14(1)(d) as Shia member and woman member
6) Smt. Parveen Taj –nominated u/s.14(1) (d) as Sunni member and woman member
7) Sri A.Md. Imtiaz I.A.S. - nominated u/s 14(1)(e) as Government Officer

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Members nominated u/s 14(3)

8) Sri K.M.Saifullah – nominated for the category u/s 14(1)(b)(i)
9) Sri Khaleelulah Khan Sherwani - nominated for the category u/s 14(1)(b)(iii)

Section 14 (3) of the Waqf Act, 1995 reads:

> "Notwithstanding anything contained in this section, where the State Government is satisfied, for reasons to be recorded in writing, that it is not reasonably practicable to constitute an electoral college for any of the categories mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section (1), the State Government may nominate such persons as the members of the Board as it deems fit."

The State of Andhra Pradesh was bifurcated in 2014 and an anomalous situation arose. There is no Muslim M.P. from the Lok Sabha and the Muslim M.P. from the Rajya Sabha, Sri Mohammed Ali Khan, was allotted by lottery to Andhra Pradesh as per the rules in the First Schedule of the A.P.Reorganisation Act, 2014, but has his permanent address in Telangana State (at 17-9-596, Yakat Pura, Hyderabad).

There is also no Muslim Bar Council Member. For these reasons the Government is satisfied that it is not reasonably practicable to constitute an electoral college for the categories mentioned in sub-clauses (i) and (iii) of clause (b) of sub-section (1), and therefore decided to nominate the above candidates, Sri K.M.Saifullah for the category u/s 14(1)(b)(i) and Sri Khaleelulah Khan Sherwani for the category u/s 14(1)(b)(iii), by exercising the power vested in the Government u/s 14(3) of the Waqf Act, 1995.

10. Under Sub-section (8) of Section 14 of the Waqf Act, 1995, the above Members of the Andhra Pradesh State Waqf Board shall meet so as to elect one from amongst themselves as the Chairperson of the Board.

11. As directed by the Honourable High Court, the appointment of the Muslim Member of Legislature, Sri Jaleel Khan, M.L.A., u/s 14(1)(b)(ii) by this notification, shall be subject to the result of W.P.No.27642 of 2017 in the Honourable High Court.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

K. PRAVEEN KUMAR
Ex-OFFICIO PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner, Printing, Stationery and Stores Purchase,
Mutyalampadu, Vijayawada-II, A.P.
(With a request to publish the Notification in the Extra Ordinary Gazette of Andhra Pradesh, dated:13.03.2018 and send 100 copies to this Department).

Copy to:

The Secretary to Governor, Raj Bhavan, Hyderabad.
The Secretary, Andhra Pradesh State Legislature Secretariat, Velagapudi .
The Secretary to Government, Law Department, Velagapudi.
The Advocate General, High Court, Hyderabad.
All the Departments of Secretariat.
All the District Collectors.

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The Accountant General, Andhra Pradesh, Hyderabad.
The Pay and Accounts Officer, Andhra Pradesh,
Ibrahimpatnam, Vijayawada.
The Registrar, High Court, Hyderabad.
The Commissioner, Information and Public Relations,
Andhra Pradesh, Vijayawada.
(With a request to publish in all popular daily news papers)
The Chief Executive Officer, Andhra Pradesh State Waqf Board,
Vijayawada.
The Secretary to Government of India, Ministry of Minority
Affairs, New Delhi.
The Secretary to Hon'ble Chief Minister, A.P. Secretariat,
Velagapudi.
The P.S. to Ex-Officio Principal Secretary to Government,
Minorities Welfare Department.
SF/SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER